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AMENDMENTS TO THE CONSTITUTION

OF THE

STATE OF LOUISIANA

ADOPTED AT

ELECTION HELD ON

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A REVIEW

OF THE

CONSTITUTION

SUBMITTED TO THE PEOPLE OF

LOUISIANA,

IN CONNECTION WITH THE

CONSTITUTIONS OF 1852 AND 1868.

By J. H. MUSE,

AN ALUMNUS OF THE COLLEGE OF LOUISIANA IN 1832; MEMBER OF THE BAR OF LOUISIANA SINCE 1833; MEMBER OF THE LEGISLATURE UNDER THE CONSTITUTION OF 1812; AND AUTHOR OF THE BILL TO ABOLISH IMPRISONMENT FOR DEBT, PASSED IN 1839-40.

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REVIEW

OF THE

CONSTITUTION

SUBMITTED TO THE PEOPLE OF LOUISIANA.

I propose to write and cause to be published a review of the constitution recently submitted to the people of Louisiana, in connection with the constitutions of 1852 and 1868. My reasons for placing myself in this attitude before my countrymen and honored-fellow citizens of Louisiana, are as follows:

Whilst the people will be called upon to cast their votes for or against the constitution submitted to them on the second of December next, I am thoroughly convinced, from circumstances which have transpired since the close of the session of the late convention, that not one citizen in ten thousand will ever have seen the constitution before he casts his vote for or against it. I esteem it to be not only the privilege, but the duty of every good citizen to inform himself, and to inform others, as far as possible, of the nature, merit and demerit of this

constitution before he approaches the ballot-box. With increasing years, I feel an increasing solicitude for the future welfare of my beloved country, as well as for the interest of those with whom I have been connected in life by many endearing ties, and who, in the ordinary course of nature, I must at no very far distant day leave behind me.

"It is of great reason (says a profound thinker, Francis Lord Bacon) that they who have children should have respect to the future unto which they know they must resign their dearest pledges"—a sentiment which doubtless has a place in the bosom of every good father of a family within the borders of Louisiana. I would fain perpetuate, were it in my power to do so, the blessings of civil society and good government, which, up to the close of the late civil war, gave value to American citizenship in the State of Louisiana, and put the capital stock of life within her borders at a heavy premium, both at home and abroad. In contributing as far as in my power to the accomplishment of this most desirable end I feel that I shall be paying to some extent a debt of gratitude to my beloved and adopted State of Louisiana, in which, from my early boyhood, I have found a home and a country to which I have been indebted for all that has given value to a life now far spent.

For the last ten years I have been struggling with all the power and influence that I possess to

secure, in coöperation with others, for our beloved Louisiana, a good goverment, under which the ends and purposes for which civil society and governments are formed might be fully accomplished, with the least possible burden to the people. In this struggle, and in the results of the labors of the late constitutional convention, I confess I have felt sadly and greviously disappointed.

Before entering upon the review or discussion of the constitution now before the people, I beg leave to submit to their consideration a few simple propositions:

I. The attribute of popular sovereignty was not so merged in the late constitutional convention, nor in the constitution which they have submitted to the people, as to be forfeited by the rejection of that constitution, but will remain in the people in its plenitude.

II. The constitution of 1868, which of course would remain in force for the time being should the constitution now before the people be rejected, possesses no self-sustaining or perpetuating power without, much less against, the sovereign authority of the people.

III. The attribute of sovereign authority is not confined to any particular mode or form of action. It may act through a legislative body, as well as through a constitutional convention. With a *model* constitution in being, previously formed by dele-

gates of the people in convention, ratified by the people, and in practical and successful operation until suppressed by the results of the late civil war, nothing would be more remote than the necessity of calling a convention, in order to vitalize, revive and re-adopt the constitution of 1852 (a people's constitution), as a substitute for the constitution of 1868. What then would be necessary? A simple legislative enactment referring the constitution of 1852, with the necessary amendments growing out of the abolition of slavery, to the people for ratification, as a substitute for the constitution of 1868.

IV. The end to be accomplished would simply be the superseding of the constitution of 1868 by the adoption of the constitution of 1852 (with necessary amendments), by the sovereign authority and will of the people expressed at the ballot-box.

Before taxing the reader with a perusal of the following pages, I would respectfully request his attention to numerous, highly reputable references to be found appended to this review. And before entering upon the discussion of the constitution now before the people, I desire to fix the attention of the reader on the mode and manner in which it has been submitted to them for ratification or rejection. I mean the combining and consolidating in the same ballot-box the vote of the people upon the constitution with their ballots to elect officers to fill offices created by the constitution. In this proceeding

there is a clear departure from a long line of most respectable precedents.

When the constitution of 1812 was framed by a convention of the people, under the authority of the enabling act of congress, it had of course to be referred to congress for approval, and upon that contingency the following section or ordinance in the general schedule was enacted, to-wit:

"Section 7. At the expiration of the time after which this constitution is to go into operation, or immediately after official information shall have been received that congress have approved of the same, the president of the convention shall issue writs of election to the proper officers in the different counties, enjoining them to cause an election to be held for governor and members of the general assembly in each of their respective districts."

When the constitution of 1845 was framed by the convention chosen by the people, the following ordinance was adopted under title ten, to-wit:

"Article 150. Immediately after the adjournment of the convention, the governor shall issue his proclamation, directing the several officers of this State authorized by law to hold elections for members of the general assembly, to open and hold a poll in every parish in the State, at the places designated by law, upon the first Monday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption

or rejection of this constitution; and it shall be the duty of said officers to receive the votes of all persons entitled to vote under the old constitution and under this constitution. Each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written, 'The constitution accepted,' or 'The constitution rejected.'"

"Article 152. Should this constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State authorized by law to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the third Monday in January next (1846), for governor, lieutenant-governor, members of the general assembly, and all other officers whose election is provided for pursuant to the provisions of this constitution."

When the constitution of 1852 was framed by the convention of delegates chosen for the purpose, the following ordinance was adopted, to-wit:

"Article 150. Immediately after the adjournment of the convention, the governor shall issue his proclamation, directing the several officers of this State authorized by law to hold elections for members of the general asembly, to open and hold a poll in every parish in the State at the places des-

ignated by law, upon the first Tuesday of November next, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of said officers to receive the votes of all persons entitled to vote under the old constitution and under this constitution. Each voter shall express his opinion by depositing, *in a separate box kept for that purpose*, a ticket whereon shall be written, 'The constitution accepted,' or, 'The constitution rejected,' or some such words as will distinctly convey the intention of the voter."

"Article 152. Should this constitution be accepted by the people, it shall also be the duty of the governor forthwith to issue his proclamation, declaring the present legislature, elected under the old constitution, to be dissolved, and directing the several officers of the State authorized by law to hold elections for members of the general assembly, to hold an election at the places designated by law, upon the 4th Monday in December next, for governor, lieutenant-governor, members of the general assembly, secretary of state, attorney-general, treasurer and superintendent of public education."

When the constitution of 1864 (!!!) was framed by a convention assembled during the war, the following ordinance was also adopted :

"Article 152. Immediately after the adjournment of the convention, the governor shall issue his pro-

clamation, directing the several officers of this State authorized by law to hold elections, or in default thereof such officers as he shall designate, to open and hold polls in the several parishes of this State, at the places designated by law, on the first Monday of September, 1864, for the purpose of taking the sense of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of said officers to receive the suffrages of all qualified voters. Each voter shall express his opinion by depositing in the ballot box a ticket whereon shall be written, 'The constitution accepted,' or, 'The constitution rejected.'"

"Article 154. As soon as a general election can be held under this constitution in every parish of the State, the governor shall, by proclamation, or, in case of his failure to act, the legislature shall, by resolution, declare the fact, and order an election to be held on a day fixed in said proclamation or resolution, and within sixty days from the date thereof, for governor, lieutenant-governor, secretary of the state, auditor, treasurer, attorney-general and superintendent of education."

We have cited the foregoing several precedents bearing upon the mode and manner in which the constitution now before the people has been submitted to them. We have made the last quotation from what has been denominated the constitution of Louisiana, simply because this body of men respect-

ed previous precedents in the government of Louisiana. In those precedents the wisdom, patriotism and respect for the unbiassed, free and sovereign will of the people, in the adoption or the ratification of the framework of a government of their choice, shined forth most brightly in every line and sentence. No ballot was permitted to be deposited in the ballot-box under any of those ordinances upon any other issue than that which expressed the sense and sentiments of the citizen, upon the acceptance or rejection of the constitution submitted to his approval or disapproval. This, it must be apparent to the minds of the citizens of to-day, was the only method by which a free, unbiassed and impartial vote or ballot could have been deposited in the ballot-box, and these lights, we think, ought to have shone upon the councils of those who have framed and submitted to the people the constitution now before them. But what is the ordinance upon this subject which has been adopted in the constitution now submitted to the people?

"Article 258. Immediately after the adjournment of this convention, the governor shall issue his proclamation, directing the several officers of the State authorized by law to hold elections for members of the general assembly, to open and hold a poll in every parish of the State, at the places designated by law, upon the first Tuesday in the month of December next, 1879, for the purpose of taking the sense

of the good people of this State in regard to the adoption or rejection of this constitution; and it shall be the duty of said officers to receive the votes of all persons entitled to vote under the constitution of 1868. Each voter shall express his opinion by depositing in the ballot-box a ticket whereon shall be written or printed, 'For the constitution,' or, 'Against the constitution,' or some such words as will distinctly convey the intention of the voter. It shall also be the duty of the governor in his said proclamation to direct the said officers authorized by law to hold elections, to open and hold a poll at the above stated time and places for the election of governor, lieutenant-governor, members of the general assembly, secretary of state, attorney-general, state auditor and superintendent of public education, and of all officers whose election is provided for in this constitution; *and the names of the persons voted for shall be written or printed on the same ticket and deposited in the same box as the votes for or against the constitution.*"

The foregoing ordinance is without precedent in the history of the government of Louisiana, excepting only in the carpetbag constitution of 1868, which we propose particularly to notice hereafter.

What is to be the effect of the general elections to fill the offices created by the constitution at the same time that the vote of the people is to be expressed upon the ratification or rejection of the constitu-

tion? Manifestly collateral issues of the most intense interest are to mingle with the voice of the people upon the constitutional question—issues in which the merit or demerit of the constitution itself is likely to be lost sight of. The multitudinous officers created by the constitution, from the governor down to a justice of the peace, with their emoluments, open up at once a fierce and exciting struggle, unparalleled in the history of Louisiana, as is already abundantly manifest. These offices are as so many political prizes, amounting in the aggregate to not less than three hundred and twenty-five to three hundred and fifty thousand dollars, suspended upon the contingency of the ratification of the constitution; whilst the contestants for each prize already in the field would perhaps amount to an average of at least ten or more, whilst the numbers who sympathize with the contestants would form "a multitude which no man could number."

For this state of things the people are indebted mainly to the submission of the carpetbag constitution in the same manner as the one before the people has been submitted, and especially to the vast field of political, professional and judicial enterprise which was opened up in the carpetbag constitution—a constitution conceived, framed and put in operation, and the machinery of government created by it, run not in the interests of the people, nor for the benefit of the people, but for the benefit

of the ruling power, under which men sought for private fortunes, wealth and independence as others do in the private pursuits or honorable enterprises of life. Upon a fallen, exhausted and ruined people, the authors of that instrument doubled and trebled the burdens of government.

Had that frame work of an organized oppression been submitted to the people upon its own naked, isolated merits or demerits—especially had it contained a clause excluding all from holding office who had participated in the formation of it—it is extremely doubtful to this day, at least in the mind of the writer, whether it would have been ratified by the people. There is another deplorable circumstance existing at this time which is calculated to secure a large vote in favor of the ratification of the constitution before the people, without special reference to its merits. The universal dearth in the results of active labor and employment in every branch and department of business, trade and profession, is such as to prompt multitudes of men to flee from the hardships of productive labor and private enterprises and pursuits to the more renumerative employment in the various offices of the government. The field of enterprise in this respect, which was opened up under the constitution of 1868, was overwhelmly great and seductive. It is still very great under the constitution now submitted to the people.

We now propose to consider article 140: "Until otherwise provided by law, the general State elections will be held once every four years (!!), on the Tuesday next following the third Monday in April."

In this article of the constitution, the people will at once perceive a change, extraordinary and fundamental, in the organic law of Louisiana, and a departure from the fundamental principles of a popular government. There is a suppression of the voice of the people at the ballot-box for a period of four years (counting from the general election, 2d December next, until April, 1884, will be four years and five months); and this suppression of the popular voice applies to both branches of the legislature. It also involves the very extraordinary feature of a senate and house elected for the same term and at the same time. It involves clearly a subversion of the principle, that the popular voice is to be heard in the popular branch of the legislature more frequently and at shorter periods than in the senate, in which, being of longer duration in the term of office, a more stable and conservative body of men are presumed to act rather as a check upon hasty or not well-considered legislative acts originating in the popular branch. This principle is eminently conspicuous in the organic law of the United States, under the provisions of which the senatorial term is fixed at six years, whilst the term of office of the members of the house

of Representatives is fixed at two years; thus giving the people an opportunity to be heard in the councils of the nation by the election of delegates every two years. This principle in the organic law of the United States has been followed in the formation of every constitution in the United States, excepting, perhaps, in one or two instances of recent date. In this departure from precedents long established there is involved two manifest incongruities, for which it would be very difficult in our judgment to find any satisfactory explanation. In the first place, if both branches of the legislature are to be elected at the same time and for the same term, why not both occupy the same legislative hall, and both together form an executive council, to act as such in confirming or rejecting executive appointments, and indeed perform all the functions which the Senate, heretofore elected for a longer term, a little more remote from the people, and a little nearer the executive branch of the government, and more likely to be further from the transient and outside influences than the popular branch of the legislature, has performed.

In the second place, upon the theory of the popular government, that the will of the people expressed in the forms of legislation, by their representatives recently chosen at the ballot-box, is to form the law of the commonwealth, what conceivable reason can there be for suppressing this only

recognized power of a popular government for a term of four years? Have they lost capacity for self-government? Or is it intended that this constitution, once accepted by the people, shall become a self-shutting and self-fastening machinery? No ingress from without, and no disturbance by the voice of the people at the ballot-box for the long repose of four years.

By an ordinance in this constitution, No.———, it is provided that the constitution may be amended when two-thirds of the members elected to both house shall concur in amendments, which amendments are to be submitted to the people at the next general election.

Suppose, then—which is hardly a supposeable case—that amendments should be agreed upon at the first session of the legislature held under this constitution, *when* would such amendment reach the people at the ballot-box? In April, 1884. But suppose—which is a thousand to one more supposeable—that no amendment should be agreed upon until the session of the legislature to be held in May, 1884, when would those amendments reach the people at the ballot-box? In April, 1888. The prospect of an amendment can furnish but little ground for the ratification of this constitution.

We propose now to consider as briefly as possible the *judiciary*. In this branch of the public service it will be very apparent to those who examine it

that great and important changes have been made in the judiciary system of Louisiana.

From simplicity and economy, which were prominent and controlling elements in the constitution of 1852 (a constitution framed in the interests and for the benefit of the people, and in successful operation until suppressed by the results of the late civil war), we are to pass, if the proposed constitution is adopted, under a judicial system exceedingly complex and eminently defective in the all-important element of economy. This judicial system is understood to have been the work of twenty-one lawyers, three of whom were judges, who had temporarily vacated their offices to be in the convention. That a committe thus composed should have constructed a judicial system acceptable to the legal profession, as well as to aspirants to judicial honors and emoluments, was, perhaps, to have been expected. In this remark we mean no reflection upon the gentlemen composing the committee; but whilst we bow with respectful deference to their superior learning and combined wisdom, we beg leave to say that they did not, in our humble judgment, like wise master-builders, first set down and count the cost. We have, as we think, a light, a precedent, to which we beg leave to appeal upon this question.

Under the constitution of 1852 the judicial system, covering the entire country parishes outside of

the parish of Orleans, cost the poeple $59,100. There were eighteen judicial districts, with salaries to the presiding judges of $2,500 each, and eighteen district attorneyships, with salaries of $800 each. Under the constitution now before the people the judicial system proposed to be established, covering the entire country parishes outside of the parish of Orleans, is to cost the people $144,000. That is, there are to be twenty-six judicial districts, with power granted to the legislature to increase the number to thirty, with judicial salaries of $3,000 for each presiding judge. There are to be twenty-six district attorneys, with salaries of $1,000 each. There is to be a court of appeals, intermediate betwen the district court and the supreme court, composed of ten judges, with salaries of $4,000 each, this last amounting in the aggregate to $40,000.

Now the question which we propound to the authors of this system, to its defenders and supporters, is this: Have the property and estates, with the various elements that enter into litigation, which are to pass under judicial administration and guardianship, increased so greatly since the adoption of the constitution of 1852, and its suppression by the results of the late war, as to require this immense increase of judicial forces and attorneyships, and this immense outlay in official emoluments?

Let the masses of the people, a large majority of

whom have been reduced, by the deplorable vicissitudes through which the country has passed since the inauguration of the late war, to the naked position or platform of food and raiment and habitation to dwell in, and but little more, answer the above propounded question.

Let the great majority of the legal profession, who universally complain of a great dearth in professional emoluments, answer the question. The writer of this review has some experience, as well as knowledge, acquired from his brethren of the bar in different portions of the State. During a brief sojourn in the town of Marksville, the seat of justice of the once rich and flourishing parish of Avoyelles, in the year 1876, he was advised by a respectable member of the profession that there were twenty-one lawyers in Marksville, and that there was not more business to do than one competent and efficient lawyer ought to be able to do.

Within the last few months the writer, in an interview with a prominent member of the bar from the city of Baton Rouge, inquired of him how the profession was there. Said he, "It is dead; there is nothing to do." Rare exceptions, in some portions of the State, may occur to the foregoing statements of respectable members of the profession, but they are exceptional cases. But if the lawyers have so little to do, what are the judges to have to do? *Of course*

the abolition of slavery, with all slave contracts, and the system in all its ramifications, would cut down the sources of litigation of judicial labors and professional emoluments at least one-half in a large majority of the country parishes, whilst the reduced condition of the masses of the people would greatly diminish litigation, through their inability to sustain its costs and its burdens, and thereby diminish greatly the judicial labors,

The following exhibit will serve as a sample of the judicial system as organized by the constitution before the people. Under the constitution of 1852, in force until 1864, the seven Florida parishes were organized into two judicial districts, with a salary in each of $2,500; also one district attorney in each district, with a salary of $800, making, for the Florida parishes, judicial emoluments..... $5,000
Attorneyships..... 1,600

$6,600

Under the constitution before the people the parish of Pointe Coupeé has been added to the Florida parishes, and together have been converted into four judicial districts, with a judicial salary attached to each of $3,000, making.....$12,000
Four attorneyships, $1,000 each..... 4,000

$16,000

To the foregoing judicial emoluments and attorney-

ships is to be added the pro rata of these nine parishes of $40,000 for the courts of appeal which are to extend over the country parishes—say $7,500,—making in the aggregate $23,500 for the same territorial jurisdiction, exclusive of Pointe Coupeé, where there was but $6,600 to be borne by the people under the constitution of 1852.

To the average mind of the citizen the question will naturally arise as to how official emoluments have so immensely increased, whilst the revenues of the country have so immensely declined, since the adoption of the constitution of 1852 and its suppression in 1864. Then the country was rich and prosperous, and official emoluments were simply compensative for official duties performed. Now the country is poor and the government bankrupt, and a corps of officials is to be placed upon a platform having no foundation in justice, equity or right, and as far above the masses of the people as the owner of a hundred slaves occupied above the day-laboring white man of the country. At this point it will not be out of place to suggest that according to indications "this white man's government" is to be sustained by the fruits of the white man's labor.

Upon the question of economy in the judicial organization, it is proper to consider what is to be done with the supreme court of the State. It will be seen that their salaries are to be cut down from $7,500 for the chief justice, and from $7,000 for the

four associate justices, to $5,000 each, because they are unable to do the work they bargained for. Thus it will be seen that by this reduction of the salaries of the judges of the supreme court, there has been a saving of judicial emoluments of $10,500—ten thousand of which might easily have been divided between two additional judges, which would have constituted a court of seven, which would doubtless have been sufficient to perform the appellate labors of that tribunal, with $500 saved, especially as the sources of litigation which have overburdened the supreme court must rapidly diminish; as the vicious legislation that has gone upon the statute book in the last ten years has been in a great measure repealed, and monopolies, corporations and privileges abolished, whilst contest for the loaves and fishes of office, which has formed a staple subject of litigation heretofore, must, under a sound conservative administration of the government, rapidly diminish.

Upon the score of economy and necessity, this intermediate court of appeals between the district and supreme courts of necessity can never receive the sanction of those who have the burdens of government to bear.

Will it be contended that the establishment of this court was necessitated by the abolishment of the parish court system? This system had ceased to have any existence in Louisiana after the adoption of the constitution of 1845, and was amply

provided for, so far as the probate jurisdiction of that court was concerned, by the following article of the constitution of 1852 :

"Article 76. The legislature shall have power to vest in clerks of courts authority to grant such orders and do such acts as may be necessary for the furtherance of the administration of justice, and in all cases the power thus granted shall be specific and determined." Under this authority a perfect system of probate was organized by the legislature, under which the clerks of the district courts were clothed with plenary authority to settle up estates, excepting in contested cases, for which cases a docket was prepared and laid before the presiding judge of the district court, who was, under the statutory provisions, ex-officio judge of probate. His decisions being rendered in contested cases were returned to the clerk for final settlement, which was done by the clerks, and notaries public for clerks, and notarial fees out of each estate settled up, no increase of emoluments being allowed to the presiding judge of the district for his services as ex-officio judge of probate. This, this, *was* economy.

We propose to speak now of the complexity and practical operations of the judicial system organized under the constitution before the people. In this respect it compares unfavorably, very unfavorably,

with both the systems under the constitutions of 1852 and 1868.

Nothing could be more simple and easily understood than the practical workings of the systems under both of those constitutions.

In all cases subject to appeal from the district court the appeal was direct to the supreme court. No division of cases of appeal between an intermediate court of appeal and the supreme court, whose decisions were in the last resort, and served to harmonize and unify the decisions of both courts on all questions of law.

Under the proposed system, all cases of appeal from the district court, in which the amount involved is under $1,000, must be taken before the intermediate court of appeals, or circuit court, whose decisions are to be final (according to the construction put upon the system by some of its authors.)

What, then, is to be the result of the practical operations of this complex system of courts? Necessarily two distinct bodies of jurisprudence must grow up.

The district judges must, therefore, in trying cases, look well to the amount involved, and if it exceed $1,000, look to the decisions of the supreme appelate court for precedents to guide the course of judicial investigations and of his judgments.

If, on the contrary, the amount involved in the

case before the district judge falls below $1,000, in that case he must look in the decisions of the circuit court for precedents to guide him in his judicial investigations and final judgment. For, although no provision seems to have been made for a reporter of the decisions of the circuit courts, they are necessarily to be courts of record, and they will doubtless feel inclined to adhere to the maxim of *stare decisis*—that is, to adhere to previous decisions.

But another grave difficulty springs up out of this complex system. There are to be five circuits, with two judges to each, the judges of the several circuits are to be independent of each other, each revolving around within their own sphere of jurisdiction. There must, therefore, be a still more complex body of jurisprudence springing up in the State. That settled in each circuit being independent and distinct from the decisions rendered in the other circuits, as well as from the supreme court.

If, on the contrary, the power given to the supreme court, of supervision over all inferior courts, by granting writs of mandamus, prohibition, *certiorari*, *quo warranto*, *etc.*, involve the power of correcting errors of law in all inferior courts, then the system becomes still more complex and expensive to litigants, and involves a principle quite unknown to the laws and jurisprudence of Louisiana, viz: the trial of civil cases upon questions of law distinct from the facts or equity of the case.

One thing is very apparent in this system—innovation! inovation! inovation!

It has been said that our late convention made diligent search in the constitutions of various States of the Union for lights to guide them in framing a constitution for Louisiana. It is greatly to be deplored that, so far as the interests of the taxpayers of Louisiana are concerned, they had not fallen upon the constitution of our sister State of Mississippi, and some of the legislation thereunder.

The following exhibit, based upon data derived from a reliable source, is worthy of the profound consideration of the people of Louisiana at this time:

The legislature of Mississippi is composed of one hundred and twenty members in the lower house, and thirty seven in the senate. They meet biennially, and are allowed three hundred dollars per session, exclusive of mileage. Their allowance would therefore amount to, annually..... $23,550

Governor's salary, per annum.....	4,000
3 Supreme Judges, $3,500 each.....	10,500
10 Circuit Judges, 2,500 "	25,000
10 Chancellors, 2,000 "	20,000
2 additional Circuit Judges, $1,200 each...	2,400
Secretary of State.....	2,500
1 Clerk.....	800
State Treasurer.....	2,000

1 Clerk	800
Auditor of Public Accounts	2,000
4 Clerks at $800 each	3,200
Attorney-General	2,000
Private Secretary of the Governor	800
10 District Attorneys, at $1,200 each	13,200
Lieutenant Governor	800
Total	$113,550

The foregoing exhibit is based upon appropriations made by the legislature of Mississippi in 1878.

Thus it will be perceived that the entire government of Mississippi costs the people (fortunately blessed with a cheap and economical government) $30,450 less than the judgeships and district attorships in the parishes of Louisiana, outside of the parish of Orleans, are to cost the tax-payers here.

THE PUBLIC DEBT.

I propose next to consider the subject of the State debt, as acted upon by the convention, page 70 of the new constitution :

"Article 1. The interest to be paid on the consolidated bonds of the State of Louisiana be and is hereby fixed at two per cent. per annum for five years from the first of January, 1880, three per cent. per annum for fifteen years, and four per cent. per annum thereafter, payable semi-annually ; and there shall be levied an annual tax sufficient for the full payment of said interest, not exceeding three

mills, the limit of all State tax being hereby fixed at six mills; *provided*, the holders of consolidated bonds, may, at their option, demand in exchange for the bonds held by them, bonds of the denomination of five dollars, one hundred dollars, five hundred dollars, one thousand dollars, to be issued at the rate of seventy-five cents on the dollar of bonds held and to be surrendered by such holders, the said new issue to bear interest at the rate of four per cent. per annum, payable semi-annually.

"Art. 2. The holders of the consolidated bonds may at any time present their bonds to the State treasurer, or to an agent to be appointed by the governor—one in the city of New York and the other in the city of London—and the said treasurer or agent, as the case may be, shall indorse or stamp thereon the words, 'interest reduced to two per cent. per annum for five years from January 1, 1880, three per cent. per annum for fifteen years and four per cent. per annum thereafter;' *provided*, the holder or holders of said bonds may apply to the treasurer for an exchange of bonds, as provided in provided in the preceding article.

"Art. 3. The coupon of said consolidated bonds falling due the first of January, 1880, be and the same is hereby remitted, and any interest taxes collected to meet said coupon are hereby transferred to defray the expenses of the State government."

Upon the subject above stated I beg leave to submit to the consideration of the people the following simple propositions, viz :

I. The constitution is wholly distinct from the public debt, although both are to be voted for at once and the same time. Each therefore should stand upon its own merits.

The first and all important consideration is the constitution. If it be such as satisfies the people, and in their judgment is adapted to the present condition of the country, and calculated to promote its future welfare and prosperity, without throwing any needless burden upon them in their impoverished condition, they should ratify it. If it be not such, then, in the exercise of their own sovereign and inalienable rights, they should reject it.

II. Should the people reject both the constitution and the ordinance upon the State debt, they will be in no worse condition than they were before conventional action upon it, as it would be perfectly competent for the legislature to do all and more than the convention have done to relieve the people, if they saw fit. The legislature might repeal all laws imposing a tax upon them for the payment of the interest upon the State debt—I don't say they *ought to* do it, far from it ; and then the State would simply occupy the passive position of a non-paying debtor. The legislature might also pass an act proposing to compound with the credi-

tors upon such terms as the people could comply with, and, if accepted, would be just as binding upon the creditors of the State as the ordinance of the convention.

But suppose the creditors should accept the basis of compounding with the State at seventy-five dollars on the hundred, and receive a new issue of bonds, bearing interest at four per cent. per annum from date, under a limit of six mills on the dollar (one for levee purposes)? This would be a new debt, and ten fold more binding upon the public conscience than the old bonds.

Under what circumstances and upon what contingencies is this limitation upon taxation to take effect, which is so strongly urged as an argument in favor of the ratification of the constitution? Not in a curtailment of the official emoluments of the multitudinous officers of the government; not in starving out the multitudinous institutions established and sustained by the government? *Of course not.* What then? Suppose the universal shrinkage and downward tendency in property, on landed estates in the country particularly, should continue until six mills on the dollar upon a cash assessment of property would be insufficient to bear the burdens of the government and its institutions, and pay the interest on the new issue of bonds (nine millions at four per cent.), where would the tax limitation take effect? In *necessitating* the non-

payment of the interest upon the public debt. Had the tax limitation reserved the interest upon the new issue of bonds provided for in the ordinance, it would have presented a far more favorable aspect of public faith and of true public policy.

A few sentiments expressed by the Father of his country, in a circular letter addressed to the executives of the several States on his retirement from the presidency for the last time, will be in place here: "It cannot be possible that the Great Governor of the universe has failed to connect the interest of States, as well as of individuals, with their duty."

What is the true and only reliable limitation to taxation? It is economy in the administration of the government. And what is *economy* in the administration of government? It is simple *honesty*—no more no less; no greater drafts to be drawn upon the people in the shape of taxes than are really necessary to carry on the government and render to every man his due.

But it is said that this constitution has saved the people a million of dollars. In what way, outside of the action of the convention upon the public debt? All that has thus been saved the people could have been effected by the legislature.

What has it saved, on the basis of the constitution of 1852? It has nearly trebled the judicial burdens of the people. And *how* can democratic conservatives appeal to the constitution of 1838, as

a standard or test of the merit or demerit of the present constitution?

A REMARKABLE CONTRAST.

The following are numbers of articles in the several constitutions of Louisiana, viz: In the constitution of 1845, 152; 1852, 155; 1864, 155; 1868, 161; 1879, 268, besides numerous miscellaneous articles.

It will be seen from the above figures that there are 167 more articles in the constitution before the people than in any of the previous constitutions, chiefly upon legislative subjects, which are thus put beyond legislative action, without an amendment to the constitution. Meanwhile, as before observed, everything partaking of the character of a public office, from the governor and general assembly, down to a justice of a peace, being locked up in the constitution, goes into the political wheel of fortune as so many prizes to be won or lost by the contestants, upon the contingency of the ratification of the constitution. God save my country!

In the general notices of the newspaper press, the people, those who read the papers, are advised that the constitution will be ratified by a large majority. Can these utterances of the oracles of the press, or *behind the press*, be regarded as true exponents of the sense and sentiments of the *people*, when not one in ten thousand of them, outside of the parish of Orleans, has ever *seen the constitution*? Or is it expected that the masses will accept the constitution *on party account*, without regard to its merits or

demerits? If so, I can only say that I have greatly overrated the patriotism and intelligence of my honored fellow-citizens of Louisiana. But this I have not done—at least I shall repel such a conclusion until the people themselves are heard from. For myself I can only say that I can never forget that I have a *country* to *serve*, as well as a party to *obey*.

But we are to accept the constitution as a choice of evils. Why so? When, where, or by what unforseen calamity have the people lost their right to have a government of their choice? Are they not free? Are they not sovereign to-day? I solemnly declare before God that outside of the multitude who are seeking to be the beneficiaries of this newly organized political household and their sympathizers, there is not one man in a thousand who would not embrace, as the greatest of political blessings, the constitution of his fathers—the constitution of Louisiana in the days of her prosperity and glory—the constitution of 1852. The writer has never seen one such man.

Let the people then express their choice and their sovereign will by rejecting the constitution now before them, and then in their sovereign right and authority demand at the hands of the legislature, elected in 1878, at their session in January next, a restoration of *the constitution of 1852*.

Respectfully submitted to the people.

JAMES H. MUSE.

REFERENCES:

COMMUNICATIONS ADDRESSED TO GOVERNOR NICHOLLS.

New Orleans, December 5th, 1878.

The undersigned members of the bar of Louisiana, hereby certify that we have known the Honorable James H. Muse, a resident of the State of Louisiana for upwards of twenty years. Mr. Muse is an eminent lawyer, and was for many years a distinguished member of the legislature of this State. He is a learned, intelligent, upright and honorable gentleman

THOS. J. COOLEY, J. M. COOLEY. T. G. HUNT, RANDELL HUNT, THOS. J. SEMMES, W. H. FOSTER, G. W. H. MARR.

I cheerfully concur in the endorsement of Judge Muse by the distinguished members of the bar signing above.

E. A. BURKE.

New Orleans, December, 2d, 1878.

To His Excellency, Francis T. Nicholls, Gov. of Louisiana:

Dear Sir:—Without expressing a preference for any of the distinguished names which have been mentioned in connection with the vacancy on the supreme bench, it is proper for me to say that I have been acquainted with J. H. Muse, Esq., for forty years; that he was my partner when I first commenced the practice of law in Louisiana, and so continued for ten or twelve years, with a short interval; that since I first knew him he has held the position of one of the most prominent, influential members of the bar of his part of the State; that he has always been esteemed by his neighbors, and I believe that his

appointment would give great satisfaction, not only to the bar and the people of the Florida parishes, but to his numerous friends in other parts of the State.

Very respectfully,
E. T. MERRICK, Ex-Chief Justice.

To His Excellency, the Governor of Louisiana :

The undersigned, referring to the petition presented by the district judge, district attorney and members of the bar of the sixth judicial district, in behalf of the appointment of Hon. James H. Muse, of Tangipahoa, Louiana, to the vacant position of associate justice of the supreme court, begs leave to join in said petition, and add to that, as is well known in this State, that Mr Muse has been an active practitioner at the bar of this State for perhaps forty years, and as such has held and maintained a deservedly high position throughout the State, and particularly in the districts embracing the Felicianas, Iberville, the parishes of Baton Rouge, and the districts east thereof, as well as in the supreme and district courts at New Orleans.

That he is of mature age and experience, great legal learning, and that the position he holds is the result of his own energetic labors, he being a self-educated man.

That he is of unblemished moral character, qualified by legal learning and experience, moral and social position, for the high office for which his friends have presented his name ; and that in all the recent struggles of our State for self-government, he has been an active laborer in the cause of the liberties of our State and her people.

His appointment would gratify a wide circle of friends and admirers.

Respectfully submitted,
THOS. C. W. ELLIS,
Attorney at law.

New Orleans, La., Dec. 2d, 1878.

Governor F. T. Nicholls:

DEAR SIR: I was telegraphed before leaving the city to call upon you in the interest of Hon. James H. Muse, with reference to the vacancy created by the death of Judge Egan. This gentleman is an attorney of many years practice, has been a member of the general assembly, and is decidedly the most prominent man and member of the bar in this section of the State. Our people are anxious for his appointment, and I beg leave to remind you that this section of the country has secured no representation in appointments to prominent positions. Earnestly hoping that you will consider his and our claims,

I remain respectfully yours,

CHAS. E. LEA.

We join in this appeal and statement, and respectfully urge favorable consideration.

J. M. WRIGHT, District Attorney.
WILLIAM DUNCAN, District Judge.